

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF MISSISSIPPI

Jackson

CHAPTER 7 & CHAPTER 13
AMENDMENTS & MODIFICATIONS

CHAPTER 7 AMENDMENTS

Anytime it is necessary to change any information in a Chapter 7, such as a dollar amount or adding a creditor, an amendment is necessary.

Procedure for Filing an Amendment to Schedules:

- ✓ Prepare amended schedule(s) copy the original page(s) of schedule(s) which are affected by the amendment
- ✓ Type “AMENDED” at the top of each amended page, making sure the case name and number appear on all pages
- ✓ White out to change or add any information on these pages
- ✓ Mark each change with asterisks (***)
- ✓ If the amendment changes the amounts originally listed on Schedule A, B, D, E, F, I, or J, then it will be necessary to also amend the Summary of Schedules
- ✓ Unsworn Declaration Under Penalty of Perjury
In accordance with FRBP 1008, 28 USC § 1746 the following statement is required to be provided with each amendment: ***“I declare (or verify or state) under penalty of perjury that the foregoing is true and correct.”*** and must contain the original signature of the debtor(s).
If there are multiple pages of schedules being amended, the declaration under penalty of perjury is not required to be typed on each page, a declaration on the last page of the schedules listing all schedules amended with the original signature of the debtor(s) is all that is required
- ✓ Make two (2) copies of each amended page

A Notice of Amendment of Schedules is required ONLY if you are adding a creditor(s):

- ✓ Type correct debtor's name and case number
- ✓ List the names and address of each affected party (including Case Trustee and U.S. Trustee)
- ✓ Allow 20 days to request an adjourned 341 meeting of creditors, 60 days to file a complaint objecting to discharge or to determine dischargeability of a debt or to file a motion requesting additional time to file a complaint - cc Case Trustee (*Please see "Attachment # 1", "Sample Form # 1" & "Sample Form # 2"*)

An Amended Matrix is required ONLY if a creditor(s) was added in the amendment:

- ✓ Type "Amended" at the top of the matrix
- ✓ Delete any creditor(s) (*when deleting, place XXXX through the address*)
- ✓ Add any creditor(s) (*when adding, mark additions with asterisks ****)
- ✓ File this matrix with the Clerk's office (*do not submit an amended matrix on diskette*)

Distribute Amendment:

- ✓ Mail to each affected creditor:
 - ✂ Copy of notice of amendment to schedules
 - ✂ Copy of the §341 meeting notice (*if adding a creditor*)
 - ✂ Copy of amended schedule(s)

- ✓ Mail to Case Trustee and U.S. Trustee
 - ✦ Copy of notice of amendment to schedules
 - ✦ Copy of amended schedules

- ✓ File with the Clerk's office Original + two (2) copies
 - ✦ Notice of amendment to schedules with §341 meeting notice attached
 - ✦ Amended schedules
 - ✦ \$26.00 filing fee for amendments to debtor's schedules of creditors or list of creditors (*if you require a FILED stamped copy returned to you by mail, include an extra copy plus a self-addressed, postage pre-paid envelope*)
 - ✦ **Original amended mailing matrix**

CHAPTER 13 MODIFICATIONS

It is necessary to file a Motion for Modification when the plan is changed. For example, if you are proposing to change the percentage that is to be paid to the unsecured creditors, you must file a Motion for Modification. Often, you may need to add a secured creditor which was inadvertently omitted at the time of the initial filing. In this instance, you would be amending the schedules as well as filing a modification inasmuch as the secured creditor has not previously been a part of the plan. These are just two examples of a modification and these examples are not intended to be exclusive. *A good "rule of thumb" to remember is: if the plan changes, then a Motion for Modification is necessary.*

Procedure for Filing a Motion for Modification:

- ✓ List all proposed changes numerically
- ✓ Briefly state each change in clear and concise language

Prepare Amended Schedules:

- ✓ Copy the original page(s) of the petition which are affected by the Modification
- ✓ Type “Amended” & “Debtor’s Name and Case Number” at the top of each page, white out or add necessary information on these pages
- ✓ Mark each change with an asterisk (***)
- ✓ Prepare two (2) copies of each page for Jackson office
- ✓ Unsworn Declaration Under Penalty of Perjury
In accordance with FRBP 1008, 28 USC § 1746 the following statement is required to be provided with each amendment: *“I declare (or verify or state) under penalty of perjury that the foregoing is true and correct.”* and must contain the original signature of the debtor(s). If there are multiple pages of schedules being amended, the declaration under penalty of perjury is not required to be typed on each page, a declaration on the last page of the schedules listing all schedules amended with the original signature of the debtor(s) is all that is required

Prepare Amended Matrix (*if modification has added a creditor*):

- ✓ Type “Amended” at the top of the matrix
- ✓ Delete any creditor(s) (*when deleting, place XXXX through the address*)
- ✓ Add any creditor(s) (*when adding, mark additions with asterisks ****)
- ✓ File this matrix with the Clerk’s office (*do not submit an amended matrix on diskette*)

Prepare Modified “Mini” Plan:

- ✓ Copy original mini plan
- ✓ Make necessary changes on this sheet (*do not type a new mini plan*)
- ✓ Mark each change with asterisks (***)
- ✓ Submit the modified Chapter 13 mini plan + 4 copies

Prepare a Notice of Modification:

- ✓ Type correct debtor’s name and case number
- ✓ List the names and address of each affected party (including Case Trustee and U.S. Trustee)
- ✓ (*When the modification does not add a creditor*) allow twenty (20) days for filing objections to the modified plan
- ✓ (*ONLY When adding a creditor*) allow 20 days for a written request of an adjourned 341 meeting of creditors, 20 days to file objections to the modification, and 90 days to file a proof of claim - attach a copy of the original 341 meeting of creditors notice

Distribute Amendment:

- ✓ Mail to each affected creditor:
 - ✧ Copy notice of motion for modification of plan
 - ✧ Copy of the motion for modification of plan
 - ✧ Copy of amended schedule(s)
 - ✧ Copy of amended mini plan
- ✓ Mail to Case Trustee and U.S. Trustee
 - ✧ Copy notice of motion for modification of plan
 - ✧ Copy of the motion for modification of plan
 - ✧ Copy of amended schedule(s)
 - ✧ Copy of amended mini plan

- ✓ File with the Clerk's office
- Original + one (1) copy in Jackson office
 - Notice of Motion for Modification of Plan
 - Motion for Modification of Plan
 - Amended schedules
 - \$26.00 filing fee for amendments to debtor's schedules of creditors or list of creditors (*if you require a FILED stamped copy returned to you by mail, include an extra copy plus a self-addressed, postage pre-paid envelope*)
 - Amended mailing matrix (original only) - *only if creditor has been added or deleted*
 - Amended mini plan + 4 copies
 - Order Approving Modification - *if necessary* -

****Please Note:**

When filing a modification. . .

After Confirmation - *if no objections are filed after the 20 day objection period has passed, the order approving modification will be entered by the Court. If objections are filed, you will be notified of a hearing date - **Submit an original order + 5 copies***

Prior to Confirmation - *an order approving modification is not necessary because the Order Confirming Plan will confirm the modification - provided no objections are filed.*

COMMON ERRORS MADE ON AMENDMENTS AND MODIFICATIONS

- ✗ **Sending in the correct notice with the correct chapter that is filed.**
- There are two different notices - There is a chapter 7 notice which gives a **60** day complaint period and a chapter 13 notice which gives a **20** day objection period to the plan and if any added creditors gives them **90** days to file a proof of claim - sometimes these notices are being confused and filed with the wrong chapter.

- ✕ **Only one (1) notice is required with a Motion to Modify**
 We do not need a Notice of Filing Modification and a Notice of Amendment to Schedules. Also, when adding creditors list the added creditor and their address on the front of the notice along with the trustee and UST. Do not just type “all added or affected creditors”.
- ✕ **Submit filing fee.** A \$26.00 filing fee is due anytime a creditor is added, deleted or changes made. **i.e.** creditors moved from secured to unsecured schedules
- ✕ **Motion filed unnecessarily** An amendment does not need a motion, only a modification will need a motion stating what changes are made in the plan or in the schedules.
- ✕ **Identify all changes** Make any changes to the schedules and mailing matrix with asterisks. When adding creditors or making any changes, please put an asterisk next to any changes. When deleting a creditor XXX ‘s through the creditor on the matrix and schedule. Also, type amended on the top of the schedule that is changing.
**Please do not submit the amended matrix on diskette.*
- ✕ **Amended Summary of Schedules not submitted** Submit an amended summary of schedules when amending schedules A, B, D, E, F, I, & J. Remember, anytime a dollar amount changes in a schedule you will need to submit a summary of schedule. Also, when making changes with creditor on the mini plan, please submit the appropriate amended schedules.
- ✕ **When stating in the motion that a copy of 341 creditors meeting is attached, please attached it.**
- ✕ **Remember any time there are changes affecting creditors on the mini plan you do a modification.**
- ✕ **Amending the Chapter 13 Mini Plan** File the original amended plan plus four (4) extra copies with the clerk’s office. Also, you need to send the UST & Case Trustee their copy. We only require one (1) set of the amended schedules.

- ✘ **Only submit an Order of Modification plus 5 copies when the modification is filed after the plan has been confirmed.** If the plan has not been confirmed we do not need an Order. The Confirmation Order will take care of the Motion filed.
- ✘ **Unsworn Declaration Under Penalty of Perjury** All Modifications and Amendments require an unsworn declaration with the debtor(s) original signature.

United States Bankruptcy Court

CHARLENE J. KENNEDY
CLERK

(601) 965-5301

SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON, MISSISSIPPI 39225-2448

MAILING ADDRESS:
P. O. BOX **2448**

STREET ADDRESS:
ROOM **101**
100 EAST CAPITOL
STREET

NOTICE REGARDING AMENDMENT TO SCHEDULES TO ADD CREDITORS

Be advised that when an amendment adds creditors, the creditors should also receive notice of the §341 (a) meeting of creditors and **any other significant deadlines** for which notices has already been given to creditors, such as deadlines for filing a proof of claim or for filing complaints to determine the dischargeability of a debt.

IN A CHAPTER 7 CASE:

The notice form presently in use does not contain language regarding the proof of claim deadline (when applicable).

EFFECTIVE IMMEDIATELY: When adding creditors in an asset case where the deadline for filing a Proof of Claim has been set and given, your notice should give newly added creditors notice of their right to file a Proof of Claim within ninety (90) days of service/ mailing of the amendment or the date previously set for the filing of Proof of Claim, whichever is later.

See *Sample Form #1* attached. I call you attention to paragraph four (4). When applicable, this language should be included in your notice.

IN A CHAPTER 13 CASE:

The notice form presently in use gives added creditors thirty (30) days from the date of mailing to file their proof of claim.

EFFECTIVE IMMEDIATELY: Added creditors should be given ninety (90) days from the date of mailing of the notice of amendment to file a Proof of Claim.

See *Sample Form #2* attached. I call you attention to paragraph four (4).

CHARLENE J. KENNEDY, CLERK

ATTACHMENT # 1

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**

IN RE:

**BANKRUPTCY NO. _____
CHAPTER 7**

TO: CASE TRUSTEE (list name and address)
U.S. TRUSTEE
AFFECTED CREDITOR(S)
(list name and address of each affected creditor)

NOTICE OF AMENDMENT TO SCHEDULES

YOU ARE HEREBY NOTIFIED the above named debtor has filed with the Bankruptcy Court an Amendment to Schedules (see copy of § 341 meeting notice and amended schedule attached).

YOU ARE FURTHER NOTIFIED that if you wish to examine the debtor under oath, you must request of the U.S. Trustee an adjourned § 341(a) Meeting of Creditors. Said request must be made within 20 days from the date of mailing of this Notice.

YOU ARE FURTHER NOTIFIED that the affected creditor has 60 days from the date of mailing of this Notice to file a complaint objecting to the debtor's discharge under §727(a) and §141 of the Bankruptcy Code or a complaint to determine the dischargeability of a debt under §523(c) of the Code or to file a motion to seek an extension of time for filing a complaint, unless a longer period of time is provided by Rules 4004, 4007 and 9006, of the Federal Rules of Bankruptcy Procedure.

YOU ARE FURTHER NOTIFIED that as an added creditor you have 90 days from the date of mailing of this Notice to file a Proof of Claim or the date previously set for the filing of Proofs of Claim, whichever is later.

NAME OF ATTORNEY FOR DEBTOR

CERTIFICATE OF SERVICE

I, _____, Attorney for the above listed Debtor, do hereby certify that I have this date mailed a true and correct copy of the above Notice of Amendment of Schedules and copy of the §341 meeting notice and amended schedules to the affected creditor(s) at the above listed address(es) and to the Case Trustee (name and address of Case Trustee) and to the U.S. Trustee.

THIS the _____ day of _____, _____.

Signature of Attorney for Debtor

NAME OF ATTORNEY
ADDRESS
CITY, STATE, ZIP
TELEPHONE NUMBER

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**

IN RE:

**BANKRUPTCY NO. _____
CHAPTER 13**

(Debtor(s) and name and all other names used by the debtor(s) within the last six (6) years)
(Last four digits of Debtor(s) Social Security No.)

TO: CASE TRUSTEE (list name and address)
U.S. TRUSTEE
AFFECTED CREDITOR(S)
(list name and address of each affected creditor)

NOTICE OF FILING MODIFICATION OF PLAN

YOU ARE HEREBY NOTIFIED the above named debtor(S) has/have files with the Bankruptcy Court a Modification of Chapter 13 Plan (see copy of proposed modification attached).

YOU ARE FURTHER NOTIFIED that if you are a newly added creditor, and if you wish to examine the debtor under oath, you must request of the U.S. Trustee an adjourned § 341(a) Meeting of Creditors. Said request must be made within 20 days from the date of mailing of this Notice.

YOU ARE FURTHER NOTIFIED that any objections to this proposed Modification of Chapter 13 Plan should be filed by written pleading with the Court with a copy to the Case Trustee and U.S. Trustee within twenty (20) days of the mailing of this notice. If no objection is timely filed, the Court may approve the plan as modified.

YOU ARE FURTHER NOTIFIED that any added creditor is given ninety (90) days from the date of mailing of this Notice to file a Proof of Claim.

DATED this the _____ day of _____, _____.

Signature of Attorney for Debtor(s)

CERTIFICATE OF SERVICE

I, _____, Attorney for the above listed Debtor, do hereby certify that I have this date mailed a true and correct copy of the above Notice of Filing Modification of Plan and copy of the attached proposed modification to the Case Trustee (name and address of Case Trustee) and th the U.S. Trustee, and the affected creditor(s) at the above listed address(es).

THIS the _____ day of _____, _____.

Signature of Attorney for Debtor

NAME OF ATTORNEY
ADDRESS
CITY, STATE, ZIP
TELEPHONE NUMBER